



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0726

Introduced 2/1/2005, by Rep. David E. Miller

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/10-2 from Ch. 23, par. 10-2  
305 ILCS 5/10-2.5 new  
750 ILCS 16/20  
750 ILCS 45/14.3 new

Amends the Illinois Parentage Act of 1984, the Non-support Punishment Act, and the Illinois Public Aid Code. Provides that an award of sums of money out of the property or income of either or both parents may be made for the support of a child or children of the parties who have attained majority if: (1) the child is mentally or physically disabled and not otherwise emancipated; or (2) for the educational expenses of the child or children, whether of minor or majority age. Provides that the provision for educational expenses extends not only to periods of college education or professional or other training after graduation from high school, but also to any period during which the child of the parties is still attending high school, even though he or she attained the age of 19. Provides a list of what may be considered educational expenses. Provides that, if educational expenses are ordered payable, each parent and the child shall sign any consents necessary for the educational institution to provide the supporting parent with access to the child's academic transcripts, records, and grade reports. Lists factors that the court of the Department of Public Aid shall consider when deciding whether to make, decrease, modify, or terminate such a support order. Effective immediately.

LRB094 06427 LCB 36515 b

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 10-2 and by adding Section 10-2.5 as follows:

6 (305 ILCS 5/10-2) (from Ch. 23, par. 10-2)

7 Sec. 10-2. Extent of Liability. A husband is liable for the  
8 support of his wife and a wife for the support of her husband.  
9 Except as provided in Section 10-2.5 of this Act, unless the  
10 child is otherwise emancipated, the parents are severally  
11 liable for the support of any child under age 18, and for any  
12 child aged 18 who is attending high school, until that child  
13 graduates from high school, or attains the age of 19, whichever  
14 is earlier. The term "child" includes a child born out of  
15 wedlock, or legally adopted child.

16 In addition to the primary obligation of support imposed  
17 upon responsible relatives, such relatives, if individually or  
18 together in any combination they have sufficient income or  
19 other resources to support a needy person, in whole or in part,  
20 shall be liable for any financial aid extended under this Code  
21 to a person for whose support they are responsible, including  
22 amounts expended for funeral and burial costs.

23 (Source: P.A. 92-876, eff. 6-1-03.)

24 (305 ILCS 5/10-2.5 new)

25 Sec. 10-2.5. Support for non-minor children and  
26 educational expenses.

27 (a) If existence of the parent and child relationship is  
28 declared, or paternity or duty of support has been established  
29 under this Act or under prior law or under the law of any other  
30 jurisdiction, the Illinois Department of Public Aid may award  
31 sums of money out of the property and income of either or both

1 parents or the estate of a deceased parent, as equity may  
2 require, for the support of the child or children of the  
3 parties who have attained majority in the following instances:

4 (1) When the child is mentally or physically disabled  
5 and not otherwise emancipated, an application for support  
6 may be made before or after the child has attained  
7 majority.

8 (2) The Illinois Department of Public Aid may also make  
9 provision for the educational expenses of the child or  
10 children of the parties, whether of minor or majority age,  
11 and an application for an order, in the manner prescribed  
12 by the Department in rules, for educational expenses may be  
13 made before or after the child has attained majority, or  
14 after the death of either parent. The authority under this  
15 Section to make provision for educational expenses extends  
16 not only to periods of college education or professional or  
17 other training after graduation from high school, but also  
18 to any period during which the child of the parties is  
19 still attending high school, even though he or she attained  
20 the age of 19. The educational expenses may include, but  
21 shall not be limited to, room, board, dues, tuition,  
22 transportation, books, fees, registration and application  
23 costs, medical expenses including medical insurance,  
24 dental expenses, and living expenses during the school year  
25 and periods of recess, which sums may be ordered payable to  
26 the child, to either parent, or to the educational  
27 institution, directly or through a special account or trust  
28 created for that purpose, as the court sees fit.

29 If educational expenses are ordered payable, each parent  
30 and the child shall sign any consents necessary for the  
31 educational institution to provide the supporting parent with  
32 access to the child's academic transcripts, records, and grade  
33 reports. The consents shall not apply to any non-academic  
34 records. Failure to execute the required consent may be a basis  
35 for a modification or termination of any order entered under  
36 this Section.

1       The authority under this Section to make provision for  
2       educational expenses, except where the child is mentally or  
3       physically disabled and not otherwise emancipated, terminates  
4       when the child receives a baccalaureate degree.

5       (b) In making awards under paragraph (1) or (2) of  
6       subsection (a), or pursuant to a petition or motion to  
7       decrease, modify, or terminate any such award, the Illinois  
8       Department of Public Aid shall consider all relevant factors  
9       that appear reasonable and necessary, including:

10           (1) The financial resources of both parents.

11           (2) The financial resources of the child.

12           (3) The child's academic performance.

13       Section 10. The Non-Support Punishment Act is amended by  
14       changing Section 20 as follows:

15           (750 ILCS 16/20)

16       Sec. 20. Entry of order for support; income withholding.

17       (a) In a case in which no court or administrative order for  
18       support is in effect against the defendant:

19           (1) at any time before the trial, upon motion of the  
20       State's Attorney, or of the Attorney General if the action  
21       has been instituted by his office, and upon notice to the  
22       defendant, or at the time of arraignment or as a condition  
23       of postponement of arraignment, the court may enter such  
24       temporary order for support as may seem just, providing for  
25       the support or maintenance of the spouse or child or  
26       children of the defendant, or both, pendente lite; or

27           (2) before trial with the consent of the defendant, or  
28       at the trial on entry of a plea of guilty, or after  
29       conviction, instead of imposing the penalty provided in  
30       this Act, or in addition thereto, the court may enter an  
31       order for support, subject to modification by the court  
32       from time to time as circumstances may require, directing  
33       the defendant to pay a certain sum for maintenance of the  
34       spouse, or for support of the child or children, or both.

1 (b) The court shall determine the amount of child support  
2 by using the guidelines and standards set forth in subsection  
3 (a) of Section 505 and in Section 505.2 of the Illinois  
4 Marriage and Dissolution of Marriage Act.

5 If (i) the non-custodial parent was properly served with a  
6 request for discovery of financial information relating to the  
7 non-custodial parent's ability to provide child support, (ii)  
8 the non-custodial parent failed to comply with the request,  
9 despite having been ordered to do so by the court, and (iii)  
10 the non-custodial parent is not present at the hearing to  
11 determine support despite having received proper notice, then  
12 any relevant financial information concerning the  
13 non-custodial parent's ability to provide support that was  
14 obtained pursuant to subpoena and proper notice shall be  
15 admitted into evidence without the need to establish any  
16 further foundation for its admission.

17 (c) The court shall determine the amount of maintenance  
18 using the standards set forth in Section 504 of the Illinois  
19 Marriage and Dissolution of Marriage Act.

20 (d) The court may, for violation of any order under this  
21 Section, punish the offender as for a contempt of court, but no  
22 pendente lite order shall remain in effect longer than 4  
23 months, or after the discharge of any panel of jurors summoned  
24 for service thereafter in such court, whichever is sooner.

25 (e) Any order for support entered by the court under this  
26 Section shall be deemed to be a series of judgments against the  
27 person obligated to pay support under the judgments, each such  
28 judgment to be in the amount of each payment or installment of  
29 support and each judgment to be deemed entered as of the date  
30 the corresponding payment or installment becomes due under the  
31 terms of the support order. Each judgment shall have the full  
32 force, effect, and attributes of any other judgment of this  
33 State, including the ability to be enforced. Each judgment is  
34 subject to modification or termination only in accordance with  
35 Section 510 of the Illinois Marriage and Dissolution of  
36 Marriage Act. A lien arises by operation of law against the

1 real and personal property of the noncustodial parent for each  
2 installment of overdue support owed by the noncustodial parent.

3 (f) An order for support entered under this Section shall  
4 include a provision requiring the obligor to report to the  
5 obligee and to the clerk of the court within 10 days each time  
6 the obligor obtains new employment, and each time the obligor's  
7 employment is terminated for any reason. The report shall be in  
8 writing and shall, in the case of new employment, include the  
9 name and address of the new employer.

10 Failure to report new employment or the termination of  
11 current employment, if coupled with nonpayment of support for a  
12 period in excess of 60 days, is indirect criminal contempt. For  
13 any obligor arrested for failure to report new employment, bond  
14 shall be set in the amount of the child support that should  
15 have been paid during the period of unreported employment.

16 An order for support entered under this Section shall also  
17 include a provision requiring the obligor and obligee parents  
18 to advise each other of a change in residence within 5 days of  
19 the change except when the court finds that the physical,  
20 mental, or emotional health of a party or of a minor child, or  
21 both, would be seriously endangered by disclosure of the  
22 party's address.

23 (f-5) An order for support entered under this Section shall  
24 also include a provision concerning the support of a child or  
25 children of the parents who have attained majority but who are:

26 (1) mentally or physically disabled and not otherwise  
27 emancipated; or

28 (2) continuing education. The court may make provision  
29 for the educational expenses before or after the child has  
30 attained majority, or after the death of either parent. The  
31 authority to make provisions for educational expenses  
32 extends not only to periods of college education or  
33 professional or other training after graduation from high  
34 school, but also to any period during which the child of  
35 the parties is still attending high school, even though he  
36 or she attained the age of 19. The educational expenses may

1 include, but shall not be limited to, room, board, dues,  
2 tuition, transportation, books, fees, registration and  
3 application costs, medical expenses including medical  
4 insurance, dental expenses, and living expenses during the  
5 school year and periods of recess, which sums may be  
6 ordered payable to the child, to either parent, or to the  
7 educational institution, directly or through a special  
8 account or trust created for that purpose, as the court  
9 sees fit.

10 If educational expenses are ordered payable, each parent  
11 and the child shall sign any consents necessary for the  
12 educational institution to provide the supporting parent with  
13 access to the child's academic transcripts, records, and grade  
14 reports. The consents shall not apply to any non-academic  
15 records. Failure to execute the required consent may be a basis  
16 for a modification or termination of any order entered under  
17 this Section.

18 The authority under this Section to make provision for  
19 educational expenses, except where the child is mentally or  
20 physically disabled and not otherwise emancipated, terminates  
21 when the child receives a baccalaureate degree.

22 In making awards under paragraph (1) or (2) of this  
23 subsection, or pursuant to a petition or motion to decrease,  
24 modify, or terminate any such award, the court shall consider  
25 all relevant factors that appear reasonable and necessary,  
26 including the financial resources of both parents, the  
27 financial resources of the child, and the child's academic  
28 performance.

29 This subsection applies to actions filed on or after the  
30 effective date of this amendatory Act of the 94th General  
31 Assembly.

32 (g) An order for support entered or modified in a case in  
33 which a party is receiving child support enforcement services  
34 under Article X of the Illinois Public Aid Code shall include a  
35 provision requiring the noncustodial parent to notify the  
36 Illinois Department of Public Aid, within 7 days, of the name

1 and address of any new employer of the noncustodial parent,  
2 whether the noncustodial parent has access to health insurance  
3 coverage through the employer or other group coverage and, if  
4 so, the policy name and number and the names of persons covered  
5 under the policy.

6 (h) In any subsequent action to enforce an order for  
7 support entered under this Act, upon sufficient showing that  
8 diligent effort has been made to ascertain the location of the  
9 noncustodial parent, service of process or provision of notice  
10 necessary in that action may be made at the last known address  
11 of the noncustodial parent, in any manner expressly provided by  
12 the Code of Civil Procedure or in this Act, which service shall  
13 be sufficient for purposes of due process.

14 (i) An order for support shall include a date on which the  
15 current support obligation terminates. The termination date  
16 shall be no earlier than the date on which the child covered by  
17 the order will attain the age of 18. However, if the child will  
18 not graduate from high school until after attaining the age of  
19 18, then the termination date shall be no earlier than the  
20 earlier of the date on which the child's high school graduation  
21 will occur or the date on which the child will attain the age  
22 of 19. The order for support shall state that the termination  
23 date does not apply to any arrearage that may remain unpaid on  
24 that date. Nothing in this subsection shall be construed to  
25 prevent the court from modifying the order or terminating the  
26 order in the event the child is otherwise emancipated.

27 (j) A support obligation, or any portion of a support  
28 obligation, which becomes due and remains unpaid for 30 days or  
29 more shall accrue simple interest at the rate of 9% per annum.  
30 An order for support entered or modified on or after January 1,  
31 2002 shall contain a statement that a support obligation  
32 required under the order, or any portion of a support  
33 obligation required under the order, that becomes due and  
34 remains unpaid for 30 days or more shall accrue simple interest  
35 at the rate of 9% per annum. Failure to include the statement  
36 in the order for support does not affect the validity of the

1 order or the accrual of interest as provided in this Section.

2 (Source: P.A. 92-374, eff. 8-15-01; 92-590, eff. 7-1-02;  
3 92-876, eff. 6-1-03; revised 9-27-03.)

4 Section 15. The Illinois Parentage Act of 1984 is amended  
5 by adding Section 14.3 as follows:

6 (750 ILCS 45/14.3 new)

7 Sec. 14.3. Support for non-minor children and educational  
8 expenses.

9 (a) If existence of the parent and child relationship is  
10 declared, or paternity or duty of support has been established  
11 under this Act or under prior law or under the law of any other  
12 jurisdiction, the court may award sums of money out of the  
13 property and income of either or both parents or the estate of  
14 a deceased parent, as equity may require, for the support of  
15 the child or children of the parties who have attained majority  
16 in the following instances:

17 (1) When the child is mentally or physically disabled  
18 and not otherwise emancipated, an application for support  
19 may be made before or after the child has attained  
20 majority.

21 (2) The court may also make provision for the  
22 educational expenses of the child or children of the  
23 parties, whether of minor or majority age, and an  
24 application for educational expenses may be made before or  
25 after the child has attained majority, or after the death  
26 of either parent. The authority under this Section to make  
27 provision for educational expenses extends not only to  
28 periods of college education or professional or other  
29 training after graduation from high school, but also to any  
30 period during which the child of the parties is still  
31 attending high school, even though he or she attained the  
32 age of 19. The educational expenses may include, but shall  
33 not be limited to, room, board, dues, tuition,  
34 transportation, books, fees, registration and application

1 costs, medical expenses including medical insurance,  
2 dental expenses, and living expenses during the school year  
3 and periods of recess, which sums may be ordered payable to  
4 the child, to either parent, or to the educational  
5 institution, directly or through a special account or trust  
6 created for that purpose, as the court sees fit.

7 If educational expenses are ordered payable, each parent  
8 and the child shall sign any consents necessary for the  
9 educational institution to provide the supporting parent with  
10 access to the child's academic transcripts, records, and grade  
11 reports. The consents shall not apply to any non-academic  
12 records. Failure to execute the required consent may be a basis  
13 for a modification or termination of any order entered under  
14 this Section.

15 The authority under this Section to make provision for  
16 educational expenses, except where the child is mentally or  
17 physically disabled and not otherwise emancipated, terminates  
18 when the child receives a baccalaureate degree.

19 (b) In making awards under paragraph (1) or (2) of  
20 subsection (a), or pursuant to a petition or motion to  
21 decrease, modify, or terminate any such award, the court shall  
22 consider all relevant factors that appear reasonable and  
23 necessary, including:

24 (1) The financial resources of both parents.

25 (2) The financial resources of the child.

26 (3) The child's academic performance.

27 (c) This Section applies to actions filed on or after the  
28 effective date of this amendatory Act of the 94th General  
29 Assembly.

30 Section 99. Effective date. This Act takes effect upon  
31 becoming law.